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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,743	03/11/2002	Yoshio Ando	Cu-2867 RJS	9515
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LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT 3629	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/070,743

Applicant(s)

ANDO ET AL.

Examiner

Gerardo Araque Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/12/02;10/9/03;12/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Objections*

2. **Claim 1** is objected to because of the following informalities: **The Examiner suggests for the preamble of the claim, after (E), to be followed by "the steps comprising:" As well, as removing the period.** Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 1 – 15** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The applicant discloses the term "**and/or**" throughout the claims, which renders the claims vague and indefinite. The Examiner is uncertain as to what is included because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
6. In regards to **claim 2**, the Examiner is uncertain as to how the duplicate panel is being treated. That is to say, is the duplicate panel replacing the design master? Is the duplicate panel the design master?

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7. In regards to **claim 6**, applicant claims that the color coating system and coated product sales system are mutually checking the peripheral color. However, steps G and H further disclose the role of the color coating system, but are silent on the coated product sales system. That is to say, what ever happened to the coated product sales system and how is it incorporated into the claim? The same holds true for **claim 1 (e)** and any claims depending from claim 1 wherein the product sales system is not present.

8. **Claim 9** is generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

9. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "coating contract system" in many of the claims is used by the claim to mean "a system tat performs color matching, informs the paint manufacture dta management system of data for coating conditions, and etc.", while the accepted meaning of the term "contract" is "(1) A term of reference describing a unit of trading for a commodity future or option; (2) an agreement to buy or sell a specified commodity, detailing the amount and grade of the product and the date on which the contract will

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mature and become deliverable ([www.cftc.gov/opa/glossary/opaglossary\\_co.htm](http://www.cftc.gov/opa/glossary/opaglossary_co.htm))." The term is indefinite because the specification does not clearly redefine the term.

10. In regards to **claim 13**, the Examiner is uncertain how mixture data can be created while the color matching can be performed. That is to say, how can the final result be provided when the analysis is not complete?

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. **Claims 1, 4 – 11, and 13 – 19** are rejected under 35 U.S.C. 102(e) as being anticipated by **Johnston et al. (US Patent 6,772,151 B1)**.

13. In regards to **claim 1**, **Johnston** discloses a paint manufacturing method characterized in that at least one of following processes (A) through (E) is performed by using a communication network in the processes (A) through (E):

(A) a process of a color coating system informing a paint manufacture data management system of a color concept or a color sample (**Col. 1 Lines 54 – 58**);

(B) a process of the paint manufacture data management system receiving the information of the color concept or the color sample, creating colors corresponding to the color concept or the color sample by color creation means, and performing color

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presentation by informing the color coating system and/or a coated product sales system of the colors (**Col. 1 Lines 43 – 50; 58 – 61**);

(C) a process of the color coating system and/or the coated product sales system informing the paint manufacture data management system of color image information for correcting a color selected from the created colors (**Col. 2 – 3 Lines 64 – 11**);

(D) a process of the paint manufacture data management system performing color tuning based on the color image information and approving, together with the color coating system and/or the coated product sales system, a color as a design master, the color being determined as a result of repeating the provision of the color image information and the color tuning through mutual communication between the paint manufacture data management system and the color coating system and/or the coated product sales system (**Col. 1 Lines 36 – 37; Col. 6 – 7 Lines 29 – 9**); and

(E) a process of determining a selected color and paint for developing the color of the design master and creating paint mixture data by mutual communication of the paint manufacture data management system and the color coating system (**Col. 1 Lines 43 – 50; 58 – 61; Col. 2 – 3 Lines 64 – 11; Col. 1 Lines 36 – 37; Col. 6 – 7 Lines 29 – 9**).

14. In regards to **claim 4, Johnston** discloses characterized in that the color presentation in said process (B) includes at least one of coating workability information, paint film performance information, and price information (**Col. 7 Lines 10 – 26**).

15. In regards to **claim 5, Johnston** discloses characterized in that a display monitor employed in the color coating system and/or a display monitor employed in the coated

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product sales system in said processes (B), (C), and (D) are/is equal in type, model, and adjustment to a standard monitor provided in the paint manufacture data management system **(Col. 8 – 9 Lines 55 – 5)**.

16. In regards to **claim 6, Johnston** discloses further characterized by comprising at least one of:

(F) a process of the paint manufacture data management system informing the color coating system and/or the coated product sales system of a peripheral color created from the design master, and the paint manufacture data management system and the color coating system and/or the coated product sales system mutually checking the peripheral color **(Col. 3 Lines 11 – 23)**;

(G) a process of the paint manufacture data management system informing the color coating system of paint film performance of a paint of the selected color selected in said process (E) **(Col. 5 Lines 31 – 65)**

(H) a process of the paint manufacture data management system informing the color coating system of price information of the paint of the selected color selected in said process (E) **(Col. 7 Lines 10 – 16)**.

17. In regards to **claim 7, Johnston** discloses characterized in that a coating sample is also used in said process (B) and/or said process (D) **(Col. 7 Lines 29 – 33)**.

18. In regards to **claim 8, Johnston** discloses characterized in that a coating sample is also used in said process (F) **(Col. 7 Lines 29 – 33)**.

19. In regards to **claim 9, Johnston** discloses characterized in that an end user of a coated product accesses one of the paint manufacture data management system, the

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color coating system, and the coated product sales system, and informs the accessed one of the color concept or the color sample and the color image information of a coated product to purchase (**Col. 2 Lines 34 – 39**).

20. In regards to **claim 10**, **Johnston** discloses characterized in that, in the case of coating a colored base material with paint:

the paint manufacture data management system or the color coating system informs a base material manufacturing system providing the base material of color information of a base material color in said process (D) (**Col. 7 Lines 27 – 43**);

the base material manufacturing system and the color coating system thereafter determine a selected base material and the base material color (**Col. 7 Lines 27 - 43**); and

a design master including the selected base material and the base material color is determined thereafter (**Col. 7 Lines 27 – 43**).

21. In regards to **claim 11**, **Johnston** discloses characterized in that the paint manufacture data management system manufactures paint based on mixture data created by the paint manufacture data management system, or that the paint manufacture data management system informs the color coating system of the mixture data so that the color coating system manufactures the paint based on the mixture data (**inherently included see also Background**).

22. In regards to **claim 13**, **Johnston** discloses so that coating is performed after or while a color coating system or a coating contract system of a company related to the



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color coating system performs color matching on paint based on the provided mixture data (**inherently included**).

23. In regards to **claim 14**, **Johnston** discloses characterized in that the color coating system or the coating contract system of the company related to the color coating system informs the paint manufacture data management system of at least data for coating conditions which data is used in the coating so that the paint manufacture data management system manages the coating conditions by the data (**Col. 5 – 6 Lines 9 – 9**).

24. In regards to **claim 15**, **Johnston** discloses characterized in that:

the color coating system or the coating contract system measures a panel coated with a color-matched paint by a calorimeter and compares a measurement thereof and data of a design master (**Col. 4 Lines 26 – 39; Col. 6 – 7 Lines 29 – 9**); and

the color matching is performed again if a difference between the coated panel and the design master is larger than or equal to a given one (**Col. 6 – 7 Lines 29 – 9**).

25. In regards to **claim 16**, **Johnston** discloses a paint manufacture data management system connected via a communication network to a color coating system and/or a coated product sales system, the paint manufacture data management system characterized by comprising:

a communication control part communicating with a plurality of color coating systems and/or coated product sales systems (**Col. 1 Lines 54 – 61**) ;

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a color-matching part performing color matching based on information transmitted from the color coating systems and/or the coated product sales systems **(Col. 3 Lines 12 – 23)**; and

an image processing part generating images of color-matched coated products **(Col. 15 Part (e))**.

26. In regards to **claim 17**, **Johnston** discloses further characterized by comprising one of a price information provision operation part, a paint film performance check operation part, and a workability check operation part **(Col. 7 Lines 10 – 26)**.

27. In regards to **claim 18**, **Johnston** discloses further characterized by comprising a coating condition correction data file **(Col. 2 – 3 Lines 64 – 23)**.

28. In regards to **claim 19**, **Johnston** discloses further characterized by comprising a determined color data file **(Col. 2 – 3 Lines 64 – 23)**.

***Claim Rejections - 35 USC § 103***

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. **Claims 2 – 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **J Johnston et al. (US Patent 6,772,151 B1)**.

31. In regards to **claim 2**, **Johnston** discloses that the system stores the design master in a database, as discussed above, along with all the information regarding on how to make the design master. However, **Johnston** fails to disclose that a duplicate

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panel is created. Nevertheless, **Johnston** discloses that the system utilizes an internet-based, client-accessible website, direct connection with a private network, direct connection with the second computer, or other similar electronic means, as discussed above. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention for a user to log onto the system and copy the design master from the host database and for the user to treat the copy as the design master.

32. In regards to **claim 12**, **Johnston** discloses that the analysis and creation of paint can be performed at various locations and that they are all in communication with one another (**see above**). Although, the applicant has disclosed an additional system to repeat the mixing procedure it would have been obvious to one having ordinary skill in the art to use whatever system available that would be capable of carrying out the mixing process.

33. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Johnston et al. (US Patent 6,772,151 B1)** in view of **Tsuji et al. (US Patent 5,502,799)**.

34. In regards to **claim 3**, **Johnston** discloses that a spectrophotometer is used to perform the color analysis.

However, **Johnston** fails to disclose:

providing color data for three-dimensional image display which color data is based on multi-angular spectral reflectance so that the colors are displayed in three-dimensional images on a monitor of the color coating system and/or a monitor of the coated product sales system.

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**Tsuji**, however, discloses that it is old and well known to use a three-dimensional automatic gonio-spectrophotometer capable of being used in a rendering apparatus and of speedily and automatically conduction three-dimensional spectrocologymetry (**See Col. 5 Lines 51 – 56 and Claim 6 for example**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Johnston** in view of **Tsuji** to include a three-dimensional image display wherein the color data is based on multi-angular spectral reflectance as an additional means of analyzing the color of an object.

### ***Conclusion***

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in the PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA  
8/23/07



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